

Internal Revenue Service
District Director

Department of the Treasury

Date:

12 20 1984

Our Letter Dated:

December 14, 1983

Form:

1120

Tax Years:

12/31/80

12/31/81

12/31/82

12/31/83

Person to Contact:

Contact Telephone Number:

On the above date we wrote you about your Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. In that letter we explained why it appeared that you filed your application for tax-exempt status under the wrong Code section. We suggested that you send us a new application under Code section 501(c)(7). To date we have not received the new application or a reply.

We have therefore considered your initial application and propose to deny your request for tax-exempt status as an organization described in Code section 501(c)(3). The enclosed Form 6265, Statement of Proposed Adverse Determination, contains the applicable facts, law, and argument for our determination. Under Code section 6104(c), we will notify the appropriate State officials of this action.

Contributions to your organization are not deductible under Code section 170.

The enclosed Publication 892, Exempt Organization Appeal Procedures for Unagreed Issues, explains your appeal rights. Unless we hear from you within 30 days from this date, this letter will be our final determination.

Section 7428 of the Code provides for bringing a suit for a declaratory judgment in the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia with respect to this determination. However, section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you do not exercise your appeal rights, the Internal Revenue Service will consider it as failure to exhaust administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428.

(over)

Letter 1316(DO) (9-79)

You are required to file Federal income tax returns on the form and for the years indicated in the heading of this letter. File these returns with your key District Director for exempt organization matters within 60 days from the date of this letter, unless a request for an extension of time is granted. We will not delay processing of income tax returns and assessment of any taxes due because of your bringing suit for declaratory judgment under Code section 7428. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,


District Director

Enclosures:
Form 6265
Publication 892

Statement of Proposed Adverse Determination

Name and Address of Organization



Date

Date Annual Accounting Period Ends



Date Incorporated or Formed



Application Form Number

1023

Internal Revenue Code Section

501(c)(3)

Employer Identification Number



Purpose of Organization

To promote fellowship and social activities among members and their families, and to provide and promote recreation and outdoor sports among members and their families. To promote good sportsmanship and conservation. To own land and property in furtherance of the above purposes. The corporation in its activities shall be non-profit and non-political and shall be operated without regard to race, religion or creed.

Activities of Organization

The organization gathers several times a year during the hunting season for the purpose of hunting big game.

Organization holds meetings for the purpose of electing officers.

Members get together for a general work day or work weekend to do clean up or maintenance chores about the property.

Fact, Law, and Argument

See attached

acts:

Membership in the organization shall not exceed [REDACTED] members. A member is defined as a person possessing one share of stock in [REDACTED] and whose annual dues are paid in full by the January 1st of the year following the annual meeting.

Stock of the Corporation is valued at \$ [REDACTED] par value per share. Whenever a member resigns from a membership in [REDACTED], dies or is expelled from membership in [REDACTED], he or his family shall only receive the amount originally paid for his stock less deductions to be made for delinquent dues and assessments.

The Bylaws provide that in the event of dissolution of the organization, the assets shall be divided equally among paid up members of the organization only after all liabilities have been discharged and all expenses incurred by dissolution have been paid.

The organization is funded by the dues and assessments of members. The expenditures are for the upkeep of the cabin owned by the organization.

Law:

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax corporations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations 1.501(c)(3)-1(b)(1) provides, in part, that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes. Regulations 1.501(c)(3)-1(b)(4) provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Regulation 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

Regulations 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

Argument:

The Articles of Incorporation of the organization do not limit the purposes of the organization to one or more of the purposes specified in section 501(c)(3) of the Code. The Articles of Incorporation also do not contain a dedication of the organization's assets to an exempt purpose. In fact, the Bylaws provide that in the event of dissolution, the assets will be divided equally among the members of the organization.

The activities of the organization do not accomplish one or more of the exempt purposes specified in section 501(c)(3). The activities are directed at the pleasure and recreation of the members.

The organization is organized and operated for the benefit of its members, rather than the required public benefit.

Therefore, we conclude that the organization is neither organized nor operated exclusively for charitable purposes within the meanings of section 501(c)(3) of the Code and Regulations thereunder.